

\*\*\* URGENT \*\*\*

From: Pontarelli, Jim on Sat, Sep 9, 1995 2:59 AM

Subject: Pending TAXES;FDA;EPA;LOCAL

To: Carney, Alfonso; Firestone, Marc; Keane, Denise; Laufer, David; Mcrlo, Ellen; Mortensen, Jim; Spector, James; Walls, Tina

Cc: Coughlin, Mary; Crawford, Derek; Cryan, Joan; Daragan, Karen; Foster, Gary; Lattanzio, Ted; Levine, Lindsey; McCormick, Brendan; O'Neil, P.J.; Slavitt, Josh; Tusan, Jerry; Victoria, Celeste; Webster, Ross

We have a number of critical issues pending here, in the state legislature, regulatory agencies and local government. I want you to be aware of what is happening and what we are doing to optimize each situation . . .

- **Local Tax Authority.** This coming week is the last week of session -- adjournment is Friday. This issue will likely play-out on two fronts: as an amendment to a Senate bill (SB714) pending on the Assembly calendar for floor consideration; and as part of a conference committee report on legislation to bail-out Orange County.

Willie Brown is a co-author of the tax but has not been active in pushing the proposal. Speaker Doris Allen, on the other hand, is desperate for a bill to bail-out her Orange County district (to help defeat a pending effort to recall her). It appears she's changed her earlier position and now supports a local cigarette tax, but one with a cap and requirement of popular vote. Not acceptable. Our counts on the Assembly floor are razor thin, with us having an edge of only one or two votes. Our advantage increases on procedural votes however as many Democrats don't want to have to vote on the issue. Our strategy is to defeat any amendments on procedure.

On the second front, our count in the conference committee is bad -- we lose there unless we really turn it around, which we will try. Richard Katz is a prominent player in the committee, which has only six members, Speaker Allen included. Time is against the committee, however, which must issue a conference report by the end of day on Tuesday to meet the adjournment deadlines. Also, to successfully insert a local tax provision in the conference bill the committee must get the approval of 2/3 of the Assembly, because the Assembly has not had a hearing on the cigarette tax issue this year.

We continue to reinforce our assigned contacts in the Capitol. We continue to work the Governor's office as well. We are developing potential poison pill amendments to kill the vehicle if necessary.

In addition, we have dropped letters and radio actualities by the CA Grocers, Cal-Tax, and a joint press release by both groups goes on the wire on Monday morning. We have also been generating phone calls from consumers and retailers during the past week. We are distributing geo-political impact analysis maps to target legislators. Today I contacted Mission Viejo and they are making a call to the Speaker, whose district is nearby, on Monday morning.

- **FDA Resolution.** Also coming in the Assembly on Monday . . . we have received a draft copy of a resolution being circulated by Assemblyman Katz. I will distribute a current version on Monday morning. The resolution expresses support for President Clinton and his proposal for FDA regulation of tobacco.

Today the resolution was being circulated for co-authors. We expect introduction on Monday. Our preliminary assessment is that we can kill this resolution in committee, provided it is required to go to a policy committee. We will know more on Monday when we find out what form the resolution will take. In the meantime, we have alerted Republican leadership that this is a bad resolution and that it should not be allowed any free passes procedurally.

- **CalEPA.** CalEPA has issued public notice that it is resuming its risk assessment of ETS. The agency will conduct a public hearing on ETS issues in a few weeks. We received the

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notice yesterday. Today Ted Lattanzio and I convened a conference call with Shooks and Jeff Tannenbaum, counsel in San Francisco, to discuss strategy. Shooks will provide us with a review of the risk assessment process completed by CalEPA thus far. I will employ counsel to get an assessment of the agency's intentions and timeline, and we will conduct an industry meeting here once that information is collected.

- San Francisco. Angela Aliotto is pushing a self-service ban before the city supervisors. This is a critical battle in that passage of a self-service ban in the city will have a ripple effect throughout the Bay area and Northern California.

We have been working the issue for a few weeks, primarily working with Section Sales to mobilize retailers to discourage Aliotto. As you remember from the smoking ban fight here, Aliotto is a formidable opponent. She's hungry for press coverage (to aid her ailing campaign for Mayor) and appears intent on moving the ordinance. We expect an introduction and initial hearing within a week or so. We are continuing to mobilize retailers. Local legal counsel is analyzing potential legal challenges to the ordinance should it pass. We are also about to retain a local lobbyist to manage the issue. \*\*\*\*\* There is a longshot that we will have an opportunity to secure passage of a compromise ordinance, and I would like direction from the AAA team on parameters.

I look forward to any questions or suggestions you may have regarding any of these issues. I will keep you posted. Thanks.

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